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TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration (Old-Age and Survivors Insurance), Federal Security Agency

[Reg. 3, Further Amended]

PART 403—FEDERAL OLD-AGE AND SURVIVORS INSURANCE

WAGES, WAGE RECORDS, HEARINGS, AND ALLIED PROVISIONS

Regulations No. 3, as amended (12 F. R. 570), are further amended as follows:

1. The second paragraph of § 403.302 is amended to read as follows:

§ 403.302 *Average monthly wage.* * * *

"Expired quarters" means the number of calendar quarters elapsing after 1936 and before the quarter in which the individual died or became entitled (on his last application for benefits or recomputation of benefits) to receive primary insurance benefits, whichever first occurred, excluding (a) any quarter prior to the quarter in which such individual attained the age of 22, during which he was paid less than $50 in wages, and (b) any quarter after the quarter in which he attained the age of 65 occurring prior to 1939: *Provided,* That where an individual is credited on the Administration's records with remuneration paid in 1937 or 1938 for services performed in those years after he had attained age sixty-five, and such credits have become conclusive as wages by virtue of section 205 (c) of the act (see § 403.703), each quarter in which such remuneration was paid or deemed paid under section 209 (r) shall be included as an "expired quarter."

2. The following example is added after example 2 to § 403.302:

§ 403.302 *Average monthly wage.* * * *

Example 3: A performed services and was paid therefor as shown in his wage record as follows: $40 in the first half of 1937, $150 in the second half of 1937, and $300 in the first and third quarters of every year thereafter, with no postings for the second or fourth quarters. At the time such items were recorded, the information known to the Administration indicated that A would not attain age 65 until the second quarter of 1939. A applied for benefits in January 1943, when it is learned for the first time that he had actually attained age 65 in the second quarter of 1938.

Assuming the absence of fraud or misrepresentation and that no question as to A's correct age was brought to the attention of the Administration before the expiration of the four-year statutory period specified in § 205 (c) of the act (see § 403.703 (f)), the postings for 1937 and 1938 are conclusively deemed to be "wages" despite the fact that, if such postings were not conclusive, the remuneration received for services performed after he had attained age 65 and before January 1, 1939, would not be "wages" (see § 403.802). Hence A's "total wages" are $190 for 1937 and $600 for each subsequent year through 1942, making a total of $3,190.

The "expired quarters" are four for the year 1937, two for the first half of 1938 (including the quarter of A's attainment of age 65), one for the third quarter of 1938 (since A is conclusively credited with $300 paid therein, even though his services were rendered in 1938 after he attained age 65), none for the fourth quarter (since no credits were posted therein), and four for each subsequent year through 1942, making a total of 23 "expired quarters." A's average monthly wage is $3,190 divided by sixty-nine, or $46.23.

3. Section 403.702 (a) is amended to read as follows:

§ 403.702 *Supporting evidence as to right to receive benefits and lump sums.* * * *

(a) *Evidence as to wages.* The amounts of wages paid an individual, and the time of payment, may be proved by the wage records of the Administration and by other evidence of probative value in the manner and subject to the limitations prescribed by § 403.703. An applicant for benefits or a lump sum need not submit evidence as to wages unless requested to do so by the Administration.

Amounts of remuneration paid an individual for wartime maritime services constituting employment in the employ of the United States (see § 403.827 (c)), and the periods in which and for which such remuneration was paid, will be con-

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clusively evidenced by the determinations of the Administrator, War Shipping Administration, or his designated agents, or entries in the wage records of the Social Security Administration based upon such determinations. Whether any portion of such remuneration will be excluded from wages will be determined by application of § 403.828.

Amounts of remuneration paid an individual for services constituting employment in the employ of the Bonneville Power Administrator under section 209 (p) of the act (see § 403.827 (c)), the period in which and for which such remuneration was paid, and whether such remuneration constitutes wages under the provisions of section 209 of the act, will be conclusively evidenced by the determinations of the Bonneville Power Administrator or his designated agents, or entries in the wage records of the Social Security Administration based upon such determinations.

4. Section 403.703 is amended to read as follows:

§ 403.703 *Wage records*—(a) *Establishment of wage records.* The Administration shall maintain records of the amounts of wages paid to each individual and the periods in which such wages were paid. Such records may be revised to correct errors or omissions, subject to the limitations prescribed by the act and by the regulations in this subpart.

For the purpose of passing upon any application for monthly benefits or for a lump-sum death payment, the wage records of the Administration (as revised in accordance with this section) shall be evidence of the amounts of wages paid to the individual with respect to whose wages such application is filed and of the periods in which such wages were paid, and the absence of an entry as to an individual's wages in such records for any period shall be evidence that no wages were paid such individual in such period. Such evidence shall be conclusive for the purposes stated after the expiration of the period allowed by this section (see paragraph (f) of this section) for the revision of a wage record. However, if an application for monthly benefits or lump-sum death payment was filed within such period, so much of the wage record as was open to revision at the time of application shall not be conclusive for the purpose of the Bureau's determination (see §§ 403.706, 403.708, 403.709 (k), 403.711 (b)), or for the purpose of a referee's or the Appeals Council's decision (see §§ 403.709, 403.710, 403.711 (b)) upon such application, and shall, if inconsistent with such determination or decision, be revised accordingly notwithstanding the limitation of paragraph (f) of this section. The Bureau's determination, referee's decision, or Appeals Council's decision, referred to in the preceding sentence, does not include a determination or decision rendered by the Bureau, referee, or Appeals Council, as the case may be, after the claimant has been granted, for good cause shown (see § 403.711 (a)), an extension of time for seeking reconsideration, hearing or review (see §§ 403.708 (b), 403.709 (b), and 403.710 (b)).

(b) *Requests for wage information.* Any individual, or after his death his widow, child, or parent, upon making a written request, may obtain a statement of the amounts of wages paid such individual and the periods of payment, as shown by the wage records of the Administration at the time the request for information is received. Such statement shall also contain in general terms suittable information concerning the right to request revision of such wage records in accordance with this section.

(c) *Notice of revision of Board's own motion.* Whenever at any time an adverse revision of an entry of wages on the Administration's records is made of the Administration's own motion, affecting the accuracy of a statement of wages furnished from such records in accordance with paragraph (b) of this section, the Administration shall mail to the last known address of such individual written notice informing him of such revision and in general terms suitable information concerning the right to request further revision in accordance with this section.

(d) *Revision*—(1) *In general.* Any individual to whom wages have allegedly been paid, or after his death his widow, child, or parent, may, within four years immediately following any calendar year with respect to any part of which he claims that the Administration's wage records are erroneous, or within such further time as is provided in § 403.701 (j), file at an office of the Bureau a request for the revision of the records to correct such error, or may, within six months after the date of an adverse revision of an entry made on the Administration's own motion or the date of mailing of notice of such revision in cases in which notice must be given, whichever is later, or within such further time as is provided in § 403.701 (j) file a request to correct such revision. The request shall be in writing and shall, for the calendar quarter or quarters as to which the records are believed to be in error, set forth the amount and time of payment of all wages alleged to have been paid, the name and address of the employer or employers who paid such wages, the nature of the services rendered, and the place or places where such services were rendered.

(2) *Revision to conform to tax return.* (i) After the expiration of such four-year period, any person specified in subparagraph (1) of this paragraph may file a request, under section 205 (c) (4) of the act, containing the information specified in subparagraph (1) of this paragraph, to revise any entry or include in the Administration's wage records any omitted item of wages in order to conform its records to a tax return or portion of a tax return (including an information return or other written statement) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or under the Federal Insurance Contributions Act, or under regulations made under the authority of either.

(ii) Whenever the Administration of its own motion, after the expiration of such four-year period, makes an adverse revision of a wage record under section 205 (c) (4) of the act to conform the record to such a tax return or portion of a tax return, any person specified in subparagraph (1) of this paragraph may, within six months after such revision (or six months after the date of mailing notice of such revision in cases in which notice must be given), or within such further time as is provided in § 403.701 (j) file a request containing the information specified in subparagraph (1) of this paragraph, asking that such revision be revoked upon the ground that the document in question is not a "tax return" within the meaning of subsection 205 (c) (4), or that the tax return is not correct, or for further revision on the ground that the revision made by the Administration of its own motion did not correctly conform its records to such return.

(iii) In any proceeding upon a request filed under subdivisions (i) or (ii) of this subparagraph, no issue shall be considered except the issue of identity of such document as a "tax return" within the meaning of section 205 (c) (4), the issue of conformity of the Administration's wage records to such return, or the issue of the correctness of such return.

(iv) Where action is taken to conform the wage record with a tax return or portion of a tax return under subdivisions (i) or (ii) of this subparagraph and prior to the incorporation of such return into the wage record the Administration has information that such return is incorrect, the wage record may be revised to incorporate the return or some portion thereof only insofar as such incorporation would make the wage record more nearly correct.

(3) *Revision to conform to statutory award.* After the expiration of such four-year period, any person specified in subparagraph (1) of this paragraph, may file a request to include in the Administration's wage records for any period, the amount allocable to such period of any award paid prior to April 1, 1946, pursuant to an act of Congress or a State statute which as a means of making an individual whole, evidences an intent to create an employment relationship by law or to confer upon him all the ordinary incidents of an employment relationship, notwithstanding his discharge or the employer's refusal to hire him or which indicates an intent to protect an individual's right to wages.

(e) *Evidence in support of wage record revision.* When a request for the revision of an individual's wage record is filed as provided in paragraph (d) of this section, the individual requesting the revision shall submit supporting evidence of probative value, including evidence as to the facts required under that paragraph to be contained in such request.

(f) *Limitations upon revision*—(1) *After four years.* After the expiration of the fourth year following any calendar year in which wages were alleged to have been paid to an individual, the Administration's records shall not, in the absence of fraud or misrepresentation, be revised as to any entry or omission of wages paid to the individual for such year, except in the following cases:

(i) Where a request for revision or further revision under paragraph (d) of this section is filed under the conditions, and within the time, specified in such paragraph; or

(ii) On the Administration's own motion, either to conform a wage record to a "tax return" as provided in section 205 (c) (4) of the act, or to reinstate a wage entry revised downward to conform to a tax return subsequently determined to be incorrect where the wage earner had no knowledge of the filing of the return or of the revision prior to the expiration of the fourth year after the calendar year in which the wages were paid, or where there is in the Administration's records and files, prior to the expiration of the fourth year after the calendar year in which the wages in question were paid or alleged to have been paid, such information as would put a reasonable person upon inquiry which, if pursued, would disclose the error in the wage record and would lead to a correction of such record.

Example 1: The X company, in its tax return for the first quarter of 1940, reported wages of $500 paid to John M. Smith, Sr., but through error gave the account number of his son, John M. Smith, Jr., who previously had been employed by the X company. The wages were posted to the son's wage record. In 1946, the Administration, in adjudicating the father's application for primary insurance benefits (§ 403.302) discovered the error. The father's wage record may be revised to include the omitted wages. The Administration had in its records and files, prior to the expiration of the fourth year after the calendar year in which the wages were paid, such information as would put a reasonable person upon inquiry since the account number given did not match the account number assigned to the individual for whom the wages were reported. Such inquiry would have disclosed the error on the father's wage record and would have led to its correction.

Example 2: In 1937, A filed an application for a social security account number on the form provided for that purpose. In giving the identifying information required by the application, A stated that his employer's name was the X company. The X company failed to report $500 in wages paid to A, in 1937. In 1946, when A applied for primary insurance benefits (§ 403.302), he discovered the error and informed the Administration of that fact. The listing of the employer's name on the application form would not put a reasonable person on inquiry as to the error in A's wage record, because the mere mention of an employer's name on the application for account number does not indicate that the individual received wages (§ 403.827) as the employee of that employer for any particular period of time. Since the statutory period has elapsed, therefore, the record may not be corrected to include the wages paid by the X company.

(2) *Within four years.* Where the provisions of subparagraph (1) of this paragraph preclude the revision of an erroneous overstatement of wages on the Administration's records for a period, so that a wage payment must continue to be credited to such period which should have been credited in whole or part to a later period, no part of the wages represented by the erroneous overstatement shall be duplicated in the wage record for any period open to revision at or subsequent to the discovery of the error.

(g) *Revision of wage records for wartime maritime services in the employ of the United States and certain services in the employ of the Bonneville Power Administrator.* There shall be no revision of wage records based upon wartime maritime services constituting employment in the employ of the United States (see § 403.803 (d)) except as such revision is necessitated by a determination of the Administrator, War Shipping Administration, or his designated agents (see §§ 403.702 (a), 403.706 (a) (6), and 403.711a), or by application of § 403.828; nor shall there be any revision of wage records based upon services constituting employment in the employ of the Bonneville Power Administrator (see § 403.803 (e)) except as such revision is necessitated by a determination of the Bonneville Power Administrator or his designated agents (see §§ 403.702 (a), 403.706 (a) (7), and 403.711a).

5. Section 403.706 (a) (5) is amended to read as follows:

§ 403.706 *Initial determination*—(a) *Determinations affecting benefits, lump sums, and wage records.* * * *

(5) *Revision of wage records.* When a request for the revision or further revision of an individual's wage record is filed in accordance with § 403.703 (d), the Bureau shall make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether the Administration's record of such individual's wages should be revised, either by changing the records as to the amount or the time of payment of wages or by entering or deleting items of wages. (The person filing the request for revision is hereafter referred to as the party to the determination.) Any determination that the records shall be revised, shall specify the amount of any increase or decrease to be made, the amount of any item to be included or deleted, and the period or periods of payment to be shown by the records.

6. Section 403.708 (b) is amended to read as follows:

§ 403.708 *Reconsideration.* * * *

(b) *Time and place of filing request for reconsideration.* The request for reconsideration shall be made in writing and filed at an office of the Bureau within six months from the date of mailing notice of the initial determination, unless such time is extended as provided in §§ 403.701 (j) and 403.711 (a).

7. Section 403.709 (b) is amended to read as follows:

§ 403.709 *Hearing.* * * *

(b) *Time and place of filing request for hearing.* The request for hearing shall be made in writing and filed at an office of the Bureau, or with a referee, or with the Office of Appeals Council in the Social Security Administration.

If no request for reconsideration has been filed, as provided in § 403.708 (a) and (b), the request for hearing must be filed within six months from the date of mailing notice of the initial determination, except where the time is extended as provided in §§ 403.701 (j) and 403.711 (a). If a request for reconsideration has been filed (1) the request for hearing may be filed at any time prior to the mailing of notice of the reconsidered determination if such notice has not been mailed within 45 days after the filing of the request for reconsideration, or (2) the request for hearing must be filed within three months after the date of mailing notice of the reconsidered determination, except where the time is extended as provided in §§ 403.701 (j) and 403.711 (a).

8. The third paragraph of § 403.709 (g) is amended to read as follows:

(g) *Conduct of hearing and evidence.* * * *

Evidence may be received at the hearing even though inadmissible under rules of evidence applicable to court procedure, subject to the provisions of the regulations in this subpart limiting the time within which the Administration's wage records may be revised and their use as evidence (see § 403.703).

9. The second sentence of § 403.709 (l) is amended to read as follows:

(l) *Effect of referee's decision or revision by the Bureau.* * * * If a party's request for review of the referee's decision of the revised determination of the Bureau is denied (see § 403.710 (b)), such decision or revised determination shall be final and binding upon all parties to the hearing unless a civil action is filed in a district court of the United States, as is provided in section 205 (g) of the act, or unless the decision is revised in accordance with § 403. 711 (b).

10. The first paragraph of § 403.711 (a) is amended to read as follows:

§ 403.711 *Extension of time and revision*—(a) *Extension of time.* If a party to an initial determination desires to file a request for reconsideration, after the time for filing such request has passed (see § 403.708 (b)), such party may file a petition with the Bureau for an extension of time for the filing of such request. Such petition shall be in writing and shall state the reasons why the request for reconsideration was not filed within the required time. For good cause shown the Bureau may extend the time for filing the request for reconsideration, except that no such extension shall be granted where the sole purpose of the request is to seek the revision of an individual's wage record or of a finding as to wages in connection with an application for a lump sum or monthly benefits, after such revision is proclaimed by the provisions of § 403.703 (f). Where the Bureau in a proper case has extended the time for filing such request, no revision of an individual's wage record or of a finding as to wages may be made except as is otherwise provided in the regulations in this subpart.

11. The second paragraph of § 403.711 (a) is amended to read as follows:

Any party to an initial determination, a reconsidered determination, a revised determination of the Bureau in a remanded case (see § 403.709 (k)), a decision of a referee, or a decision of the Appeals Council may petition for an extension of time for filing a request for hearing or review or commencing a civil action in a district court, as the case may be, although the time for filing such request or commencing such action (see §§ 403.709 (b) and 403.710 (b) and section 205 (g) of the act) has passed. Such petition may be filed with a referee or the Appeals Council if an extension of the time fixed by § 403.709 (b) for requesting a hearing before such referee is sought, and shall be filed with the Appeals Council in any other case. The petition shall be in writing and shall state the reasons why the request or action was not filed within the required time. For good cause shown a referee or the Appeals Council, as the case may be, may extend the time for filing such request or action, except that no such extension shall be granted where the sole purpose of the request is to seek the revision of an individual's wage record or of a finding as to wages in connection with an application for a lump sum or monthly benefits, after such revision is precluded by the provisions of § 403.703 (f). Where a referee or the Appeals Council in a proper case has extended the time for filing such request or action, no revision of an individual's wage record or of a finding as to wages may be made except as is otherwise provided in the regulations in this subpart.

12. The first two paragraphs of § 403.711 (b) are amended to read as follows:

(b) *Revision for error.* Except as otherwise provided in this paragraph, an initial determination or reconsidered determination of the Bureau (see §§ 403.706 (a) and 403.708 (e)), or a determination of the Bureau which has been revised by it when the case has been remanded (see § 403.709 (k), may at any time be revised by the Bureau, either upon the Bureau's own motion or upon the petition of any party, when it clearly appears that there was an error of fact or law in such determination or that such determination was procured by fraud or misrepresentation.

Either upon the referee's or the Appeals Council's own motion, as the case may be, or upon the petition of any party to a hearing, except as otherwise provided in this paragraph, any decision of a referee provided for in § 403.709 (k) may at any time be revised by such referee or the Appeals Council, and any decision of the Appeals Council provided for in § 403.710 (d) may be revised by the Appeals Council, when it clearly appears that there was an error of fact or law in such decision or that such decision was procured by fraud or misrepresentation.

However, no determination of the Bureau or decision of a referee or the Appeals Council shall, after the period limited in § 403.703 (f), be so revised after the normal period for requesting reconsideration, hearing or review, or commencing civil action with respect to such determination or decision (see §§ 403.708 (b), 403.709 (b), 403.710 (b) and (e)), to correct a finding as to wages, unless such finding is affected by fraud or misrepresentation, or unless there is error as to such wages on the face of the evidence on which such finding is based.

13. *Effective date.* All provisions of the foregoing amendments which have the effect of limiting the rights of a claimant previously granted by such regulations shall become effective as of the date filed for publication in the FEDERAL REGISTER, except that any right to request a reconsideration or a hearing upon an initial determination existing at such date shall not be terminated by virtue of these amendments until the expiration of six months after such filing.

(Sec. 1102, 49 Stat. 647; sec. 205 (a), 53 Stat. 1368, 42 U. S. C. 1302, 405 (a); sec. 4 of Reorg. Plan No. 2 of 1946, 60 Stat. 1095; 45 CFR, 1946 Sup. 1.21)

Dated: March 1, 1948.

[SEAL] A. J. ALTMEYER,
Commissioner for Social Security.

Approved March 5, 1948.

OSCAR R. EWING,
Federal Security Administrator.

[F. R. Doc. 48-2189; Filed, Mar. 11, 1948; 8:47 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. 108.67]

PART 44—STUDY AND RESEARCH IN THE DEPARTMENT OF STATE

MARCH 4, 1948.

Under the authority contained in R. S. 161 (5 U. S. C. 22), and pursuant to the act of April 12, 1892, as amended, respecting literary and scientific collections accessible to investigators and students (20 U. S. C. 91), Part 44 of Title 22 of the Code of Federal Regulations is hereby superseded by the following regulation.

Sec.

44.1 Definition.
44.2 Use of records by officials of the United States Government other than officers of the Department of State.
44.3 Use of records by persons who are not officials of the United States Government.
44.4 Liberal interpretation of this part.

AUTHORITY: §§ 44.1 to 44.4, inclusive, issued under R. S. 161, 27 Stat. 395, as amended; 5 U. S. C. 22, 20 U. S. C. 91.

§ 44.1 *Definition.* As used in this part, the term records, in accordance with the act of July 7, 1943 (57 Stat. 380, 44 U. S. C. Sup. 366), is construed as follows:

When used in this act, the word "records" includes all books, papers, maps, photographs, or other documentary materials, regardless of

physical form or characteristics, made or received by any agency of the United States Government in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of the word "records" as used in this act.

§ 44.2 *Use of records by officials of the United States Government other than officers of the Department of State.* Authorization for Government officials other than officers of the Department of State to use the records of the Department, except where the application is processed through liaison channels of the Division of Communications and Records for civilian agencies of the Government, through the Office of Intelligence Collection and Dissemination for security agencies, and through the Legislative Counsel or Assistant Secretary of State—Administration for Congressional Committee staffs, will be subject to such conditions as the chiefs of the appropriate policy divisions of the Department of State, in consultation with the Chief of the Division of Historical Policy Research, may deem it advisable to prescribe.

§ 44.3 *Use of records by persons who are not officials of the United States Government*—(a) *The open period; records of the Department prior to January 1, 1923.* The records of the Department prior to January 1, 1923, with certain exceptions such as records relating to the citizenship of individuals, unsettled claims, and Foreign Service inspection and personnel records, are open for inspection by the general public at the National Archives, subject to its regulations. On January 1, 1949, and each year thereafter until January 1, 1955, the open date will be automatically advanced one year.

(b) *The restricted period; records of the Department between the open period and January 1, 1933.* (1) Permission to consult the records of the Department between the open period and January 1, 1933, or such subsequent date as may be fixed by the Department, may, subject to the limitations set forth in this part, be granted to such persons as lawyers, publicists, and scholars under the following conditions:

(i) The applicants shall satisfy the Department that they are qualified to do research and that they have an important and definite use for the information desired.

(ii) The applicants shall confine their requests for material to specific subjects or particular papers. The Department is not in a position to assemble large quantities of papers for persons not officials of the United States Government.

(iii) The applicants shall agree to utilize records made available to them subject to such conditions as the Department may find it necessary to prescribe.

(iv) An application from an alien to consult the records of the Department under this part will be considered only if such an application is accompanied by a letter from the head of the embassy or legation at Washington of the country of which the alien is a citizen, subject, or national. Such a letter will show that the applicant is favorably known to the appropriate embassy or legation and that the mission is familiar with the applicant's work. The Department, however, reserves the right, without prejudice, to refuse permission to consult its original records to any alien applicant.

(v) All applications to consult the records for this period will be referred to the Chief of the Division of Historical Policy Research.

(2) If the Chief of the Division of Historical Policy Research is of the opinion that the applicant possesses the requisite qualifications as set forth in this part, such application will be handled as follows:

(i) Documents or papers previously released or published, and unpublished papers clearly involving no question of policy, intelligence, or security, may be made available to qualified applicants by the Chief of the Division of Historical Policy Research without reference to other officials.

(ii) Files which are in current use in the Department, or which cannot be made public, without the disclosure of confidence reposed in the Department or without adversely affecting the public interest, will not be made available to inquirers.

(iii) Papers received by the Department from a foreign government which have not been released for publication by that government will not be made available to inquirers without the consent of the government concerned. (If there is reason to believe that a foreign government would be willing to permit the use of the papers in question under certain conditions, the permission may, at the discretion of the appropriate officials of the Department, be requested. If such permission is requested, the expenses of communicating with the foreign government will be met by the person desiring to consult the papers.)

(iv) Material or information bearing a security classification originating with another United States Government agency will not be made available unless specific approval is obtained from the agency of origin.

(v) In the case of requests for all other records, the Chief of the Division of Historical Policy Research will inform the chief of the appropriate policy division of the nature and precise limits of the proposed research and the papers involved. If the chief of the policy division concerned determines that the applicant will be permitted to use all or part of the papers desired, he will inform the Chief of the Division of Historical Policy Research of the conditions under which the papers may be examined—that is, whether copies may be made of the relevant documents or only notes may be taken and whether the copies or notes may be published in whole or in part or may be used only for background information; and whether there are any other conditions which the chief of the policy division has deemed advisable to prescribe. This decision will be final except in cases of unusual importance where the question may be referred to the Under Secretary.

(vi) Upon receiving the decision of the chief of the policy division setting forth the conditions deemed advisable and necessary to prescribe, the Chief of the Division of Historical Policy Research will arrange for the applicant to consult the files subject to the conditions decided upon.

(vii) After the applicant has consulted the papers, he will submit to the Chief of the Division of Historical Policy Research all notes, copies of documents, and the like, which he has made. These materials will be examined by the Chief of the Division of Historical Policy Research or submited to the chief of the policy division if so desired. After such examination, the materials may be transmitted to the applicant by the Chief of the Division of Historical Policy Research or retained at his discretion or that of the chief of the policy division concerned.

(c) *The closed period; records of the Department of a date later than January 1, 1933.* The records of the Department of a date later than January 1, 1933, or such subsequent date as may be fixed by the Department, shall normally be regarded as closed and may be made available to persons who are not officials of the United States Government only in exceptional circumstances upon determination that the interests of national policy would be served thereby.

(1) Such determination will be made by a Committee on the Use of Departmental Files. This Committee shall consist of the Chief of the Division of Historical Policy Research, who shall be Chairman, and a representative of each of the following: the Special Assistant to the Secretary for Research and Intelligence, the Office of Controls, the Office of Departmental Administration, the Office of American Republic Affairs, the Office of European Affairs, the Office of Far Eastern Affairs, the Office of Near Eastern and African Affairs, the Office of United Nations Affairs, and the economic offices. The Chief of the Division of Historical Policy Research will designate an executive secretary to serve the Committee.

(2) Should the Committee fail to arrive at unanimous agreement as to policy or its application to particular cases, reference may be made to the Under Secretary for decision.

(3) All requests by persons not officials of the Government of the United States, for permission to use the files or records of the Department in the closed period must be made in writing, with full justification, to the Chief of the Division of Historical Policy Research, who will refer the request to the Committee and transmit its decision to the applicant.

§ 44.4 *Liberal interpretation of this part.* It is the policy of the Department

that its records be made available to persons not officials of the United States Government as liberally as circumstances permit.

The regulations in this part shall become effective upon publication in the FEDERAL REGISTER.

Approved: March 4, 1948.

[SEAL] JOHN E. PEURIFOY,
Assistant Secretary of State.

[F. R. Doc. 48-2183; Filed, Mar. 11, 1948; 8:51 a. m.]

TITLE 46—SHIPPING

Chapter I—Coast Guard: Inspection and Navigation

Subchapter H—Explosives or Other Dangerous Articles or Substances, and Combustible Liquids on Board Vessels

[CGFR 48-9]

PART 146—TRANPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES, AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

LIQUEFIED PETROLEUM GAS (PRESSURE NOT EXCEEDING 200 LBS. PER SQ. IN. AT 100° F.)

By virtue of the authority vested in me by R. S. 4472, as amended (46 U. S. C. 170), and section 101 of Reorganization Plan No. 3 of 1946 (11 F. R. 7875), I find that an emergency exists and the following amendment to the regulations governing explosives or other dangerous articles on board vessels shall be made effective on the date of publication of this document in the FEDERAL REGISTER. This amendment to regulations governing the transportation of explosives or other dangerous articles on board vessels is published without prior general notice of its proposed issuance for the reason that notice, public rule making procedure, and effective date requirements in connection therewith are hereby found to be impracticable and contrary to the public interest. This emergency is due to the shortage of satisfactory containers needed for the transportation of liquefied petroleum gas for export and domestic service. The added regulation sets forth requirements for transporting liquefied petroleum gas when the pressure does not exceed 200 lbs. per sq. in. at 100° F. This same regulation has been approved by the Interstate Commerce Commission and published as Specification ICC 50—Unlagged Portable Tank Containers for Transportation of Liquefied Petroleum Gases in Export and Domestic Service, see FEDERAL REGISTER dated February 13, 1948 (13 F. R. 665). The purpose of this amendment to the regulations is to allow the shipment of liquefied petroleum gas at pressures not exceeding 200 lbs. per sq. in. at 100° F. on board merchant vessels under certain required conditions.

Section 146.24-100 *Table G—Classification: Compressed gases* is amended as follows:

Following the article "Liquefied petroleum gas (pressure not exceeding 65 lbs. per sq. in. at 105° F.)" add: In column 1, "Liquefied petroleum gas (pressure not exceeding 200 lbs. per sq. in. at 100° F.)." In column 2, *"Inflammable gas. Predominant components are generally propane, propylene, butanes (normal butane or isobutane), butylenes, and butadiene. Heavier than air. Mixtures with air in certain proportions will be inflammable and explosive."* In column 3, "Red gas." In column 4, "Stowage: 'On deck protected.' 'On deck under cover.' 'Containers: Tanks (ICC-50).' (Fixed length dip tube gauging devices are not acceptable, ICC-50 Subparagraph 9 (b).)" In columns 5 and 6, "Not permitted." In column 7, "Ferry stowage (BB). Containers: Tanks (ICC-50). (Fixed length dip tube gauging devices are not acceptable, ICC-50 Subparagraph 9 (b).)"

(R. S. 4472, as amended, 46 U. S. C. 170, sec. 101, Reorg. Plan No. 3 of 1946, 11 F. R. 7875)

Dated: March 8, 1948.

[SEAL] J. F. FARLEY,
Admiral, U. S. Coast Guard, Commandant.

[F. R. Doc. 48-2199; Filed, Mar. 11, 1948; 8:49 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 946]

[Docket No. AO-123-A8]

HANDLING OF MILK IN LOUISVILLE, KY., MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Correction

In Federal Register Document 48-2072, appearing on page 1265 of the issue for Tuesday, March 9, 1948, the phrase "received from products" as used in amendatory paragraph 18, should read "received from producers".

[7 CFR, Part 966]

[Docket No. AO164-A1]

HANDLING OF ORANGES GROWN IN CALIFORNIA OR ARIZONA

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO ORDER AND TENTATIVELY APPROVED MARKETING AGREEMENT

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure, as amended (7 CFR and Supps. 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159, 4904), notice is hereby given of a public hearing to be held in the Assembly Room, State Building, Los Angeles, California, beginning at 10:00 a. m., P. s. t., April 6, 1948, and in the Grand Jury Room, U. S. Courthouse, Phoenix, Arizona, beginning at 10:00 a. m., m. s. t., April 19, 1948, with respect to proposed amendments to Order No. 66 (7 CFR, Cum. Supps. 966.1 et seq.), and to the tentatively approved marketing agreement regulating the handling of oranges grown in the State of California or in the State of Arizona. These proposals have not received the approval of the Secretary of Agriculture.

Such public hearing is for the purpose of receiving evidence with respect to economic or marketing conditions relating to all aspects of the proposed amendments, which are hereinafter set forth, and appropriate modifications thereof.

The following amendments have been proposed by the Arizona Orange-Lemon Growers Association, Phoenix, Arizona:

1. Delete the words "or in the State of Arizona," from paragraph (d) of § 966.3 of the order and from paragraph (d) of section 1 of the tentatively approved marketing agreement.

2. Delete the words "or between the State of Arizona and any point outside thereof in the continental United States, Alaska, or Canada," from paragraph (j) of § 966.3 of the order and from paragraph (j) of section 1 of the tentatively approved marketing agreement.

3. Delete the words "or the State of Arizona," from paragraph (m) of § 966.6 of the order and from paragraph (m) of section 4 of the tentatively approved marketing agreement.

4. Delete the words "and Arizona" from § 966.7 of the order and from section 5 of the tentatively approved marketing agreement.

The following amendments have been proposed by a group of handlers representing growers of Valencia oranges grown in Orange and Los Angeles Counties and amendments 7, 8, 9, 10, 11, and 13 also have been proposed by the Gold Banner Association, Redlands, California, and by Fred A. Hill, Redlands, California:

5. Delete paragraph (k) of § 966.3 of the order and substitute therefor the following:

(k) "Oranges available for current shipment" means all oranges as measured by the total tree crop and which oranges are sufficiently mature to meet legal requirements for shipping. If regulations pursuant to § 966.6 become effective after the beginning of a marketing season for any variety of oranges the term shall include all oranges which are within the area of production.

6. Delete paragraph (k) of section 1 of the tentatively approved marketing

agreement and substitute therefor the following:

(k) "Oranges available for current shipment" means all oranges as measured by the total tree crop and which oranges are sufficiently mature to meet legal requirements for shipping. If regulations pursuant to section 4 become effective after the beginning of a marketing season for any variety of oranges the term shall include all oranges which are within the area of production.

7. Delete paragraph (b) (1) of § 966.6 of the order and paragraph (b) (1) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(1) Each week during the marketing season for each variety of oranges the committee shall recommend to the Secretary the total quantity of each such variety of oranges which it deems advisable to be handled during the next succeeding week. If for any reason, the committee fails to recommend to the Secretary the total quantity of each variety of oranges which it deems advisable to be handled during each week, as required hereby, reports representing the respective views of the committee members with respect to its failure to act shall be submitted promptly to the Secretary.

8. Delete paragraph (d) (7) of § 966.6 of the order and paragraph (d) (7) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(7) Each week during the marketing season for any variety of oranges the committee shall compute the total quantity of such oranges available for current shipment by each person who has applied for a prorate base and for allotments, and shall transmit a report thereon to the Secretary. Such report shall constitute the recommendation of the committee for a prorate base for each such person. Such computations and reports shall be prepared and submitted during the week prior to the week when the recommended prorate bases are to become applicable.

9. Delete paragraph (d) (8) of § 966.6 of the order and paragraph (d) (8) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(8) Upon the basis of the recommendation and reports of the committee, or from other available information, the Secretary shall fix a prorate base for such person who is entitled thereto. Such prorate base shall represent the ratio between the total quantity of the applicable variety of oranges available for current shipment by each such person and the total quantity of such oranges available for current shipment by all such persons. The Secretary shall notify the committee of the prorate base fixed for each person and the committee shall notify each such person of the prorate base fixed for him.

10. Delete paragraph (e) of § 966.6 of the order and paragraph (e) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(e) *Allotments.* Whenever the Secretary has fixed the quantity of any variety of oranges which may be handled during any week, and has fixed prorate bases for persons entitled thereto, the committee shall calculate the quantity of each such variety of oranges which may be handled by each such person during such week. The said quantity shall be the allotment of each such person and shall be in an amount equal to the product of the prorate base for each such person for each variety and the total quantity of such variety of oranges fixed by the Secretary as the quantity which may be handled during such week. The committee shall give reasonable notice to each person of the allotment computed for him pursuant hereto.

11. Delete paragraph (h) (1) of § 966.6 of the order and paragraph (h) (1) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(1) A person to whom allotments have been issued may lend such allotments to other persons to whom allotments have been issued. Such loans shall be evidenced by bona fide written agreements filed with the committee within forty-eight hours after any such agreement has been entered into, and such agreements shall include a provision for the repayment of such allotments during the then current marketing season.

12. Delete paragraph (k) of § 966.6 of the order and paragraph (k) of section 4 of the tentatively approved marketing agreement.

13. Delete § 966.7 of the order and section 5 of the tentatively approved marketing agreement.

The following amendments have been proposed by the Mutual Orange Distributors, Redlands, California:

14. Delete paragraph (a) of § 966.4 of the order and paragraph (a) of section 2 of the tentatively approved marketing agreement and substitute therefor the following:

(a) *Establishment and membership.* There is hereby established an Orange Administrative Committee consisting of eleven (11) members, for each of whom there shall be an alternate member who shall be nominated and selected in the same manner and who shall have the same qualifications as the member for whom each is an alternate. Six of the members and their respective alternates shall be growers who shall not be handlers or employees of handlers or employees of central marketing organizations. Four (4) of the members and their respective alternates shall be handlers or employees of handlers or employees of central marketing organizations. One member of the committee and an alternate of such member shall be nominated as provided in (c) (6) of this section. The six members of the committee who shall be growers and who shall not be handlers or employees of handlers or employees of central marketing organizations are hereinafter referred to as "grower" members of the committee and the four members who shall be handlers or employees of handlers or employees of central marketing organizations are hereinafter referred to as "handler" members of the committee.

15. Delete paragraph (b) of § 966.4 of the order and paragraph (b) of section 2 of the tentatively approved marketing agreement and substitute therefor the following:

(b) *Term of office.* The initial members and alternate members of the committee shall hold office for a term beginning on the date designated by the Secretary and ending October 31, 1944, or until their successors are selected and have qualified. The first handler members selected and their respective alternates shall hold office for a term beginning on the date designated by the Secretary and ending October 31, 1948, or until their successors are selected and qualified. The term of office of all succeeding members and alternate members of the committee, except as provided in (g) of this section, shall begin on the first day of November following their selection and shall continue for two years thereafter, or until their successors are selected and have qualified.

16. Delete paragraph (c) (2) of § 966.4 of the order and paragraph (c) (2) of section 2 of the tentatively approved marketing agreement and substitute therefor the following:

(2) Any cooperative marketing organization, or the growers affiliated therewith, which marketed more than 50 percent of the total volume of oranges marketed in fresh fruit form during the fiscal year preceding the date on which nominations for members and alternate members of the committee are submitted, shall nominate not less than six (6) growers for three (3) grower members, not less than six (6) growers for three (3) alternate members, not less than four (4) handlers or employees of handlers or employees of central marketing organizations for two (2) handler members, and not less than four (4) handlers or employees of handlers or employees of central marketing organizations for two (2) alternate members of the committee.

17. Delete paragraph (c) (3) of § 966.4 of the order and paragraph (c) (3) of section 2 of the tentatively approved marketing agreement and substitute therefor the following:

(3) All cooperative organizations which market oranges and which are not qualified under (c) (2) of this section, or the growers affiliated therewith, shall nominate not less than two (2) growers for one grower member, not less than two (2) growers for one alternate member, not less than two (2) handlers or employees of handlers or employees of central marketing organizations for one (1) handler member, and not less than two (2) handlers or employees of handlers or employees of central marketing organizations for one alternate member of the committee.

18. Delete paragraph (c) (4) of § 966.4 of the order and paragraph (c) (4) of section 2 of the tentatively approved marketing agreement and substitute therefor the following:

(4) All growers who are not affiliated with a cooperative marketing organiza-

tion which markets oranges shall nominate not less than four (4) growers for two (2) grower members, not less than four growers for two (2) alternate members, not less than two (2) handlers or employees of handlers or employees of central marketing organization for one (1) handler member, and not less than two (2) handlers or employees of handlers or employees of central marketing organizations for one (1) alternate member of the committee.

19. Delete paragraph (c) (6) of § 966.4 of the order and paragraph (c) (6) of section 2 of the tentatively approved marketing agreement and substitute therefore the following:

(6) The grower members of the committee selected by the Secretary pursuant to (d) of this section shall meet on a date designated by the Secretary, and by a concurring vote of at least four (4) members, shall nominate two (2) persons for a member and two (2) persons for an alternate member of the committee, which persons shall not be growers or handlers, or employees, agents, or representatives of a grower or handler (other than a charitable or educational institution which is a grower or handler), or of a central marketing organization, or in any other way directly associated with the production or marketing of oranges.

20. Delete paragraph (d) of § 966.4 of the order and paragraph (d) of section 2 of the tentatively approved marketing agreement and substitute therefor the following:

(d) *Selection.* (1) From the nominations made pursuant to (c) (2) of this section the Secretary shall select three (3) grower members of the committee and an alternate to each of such grower members; also two (2) handler members of the committee and an alternate to each of such handler members. From the nominations made pursuant to (c) (3) of this section the Secretary shall select one (1) grower member of the committee and an alternate to such grower member; also one (1) handler member of the committee and an alternate to such handler member. From the nominations made pursuant to (c) (4) of this section the Secretary shall select two (2) grower members of the committee and an alternate to each of such grower members; also one (1) handler member of the committee and an alternate to such handler member. From the nominations made pursuant to (c) (6) of this section the Secretary shall select one (1) member of the committee and an alternate to such member.

(2) In making his selections of members of the committee and their alternates the Secretary, insofar as practicable, shall select grower members and their respective alternates so as to give reasonable and adequate representation on the committee to the following geographical and growing areas:

(i) Central and northern California.

(ii) Ventura and Santa Barbara Counties, California.

(iii) Los Angeles County, California.

(iv) San Bernardino and Riverside Counties, California.

(v) Orange County, California.

(vi) San Diego County, California, and the State of Arizona.

and so as to give reasonable and adequate representation to both Valencia growers and the growers of all other varieties of oranges.

21. Delete paragraph (j) (9) of § 966.4 of the order and paragraph (j) (9) of section 2 of the tentatively approved marketing agreement and substitute therefor the following:

(9) To provide an adequate system for determining the total quantity of each variety of oranges available for current shipment, and to make such determinations as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration hereof; also to provide an adequate system of determining the total crop of Valencia oranges and of all oranges other than Valencia oranges, and to make such determinations, including determinations by grade and size, as it may deem necessary, or as may be prescribed by the Secretary in connection with the administration of this order.

22. Delete the caption from paragraph (b) of § 966.6 of the order and paragraph (b) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(b) *Recommendations for volume regulation.*

23. Delete paragraph (b) (1) of § 966.6 of the order and substitute therefor the following:

(1) Each week during the marketing season for each variety of oranges, unless volume proration is then suspended, the committee shall recommend to the Secretary the total quantity of each such variety of oranges which it deems advisable to be handled during the next succeeding week. If prorate districts are established pursuant to § 966.7, the committee shall recommend to the Secretary the total quantity of each such variety of oranges grown in each such prorate district which it deems advisable to be handled during each such week. If, for any reason, the committee fails to recommend to the Secretary the total quantity of each variety of oranges which it deems advisable to be handled during each week, as required hereby, reports representing the respective views of the committee members with respect to its failure to act shall be submitted promptly to the Secretary.

24. Delete paragraph (b) (1) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(1) Each week during the marketing season for each variety of oranges, unless volume proration is then suspended, the committee shall recommend to the Secretary the total quantity of each such variety of oranges which it deems advisable to be handled during the next succeeding week. If prorate districts are established pursuant to section 5, the committee shall recommend to the Secretary the total quantity of each such variety of oranges grown in each such prorate district which it deems advisable to be handled during each such week. If, for any reason, the committee fails to recommend to the Secretary the total quantity of each variety of oranges which it deems advisable to be handled during each week, as required hereby, reports representing the respective views of the committee members with respect to its failure to act shall be submitted promptly to the Secretary.

25. Delete the caption from paragraph (c) of § 966.6 of the order and from paragraph (c) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(c) *Issuance of volume regulation.*

26. Delete paragraph (d) (1) of § 966.6 of the order and paragraph (d) (1) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(1) Whenever volume proration is in effect each person who has oranges available for current shipment shall submit to the committee, at such time and in such manner as may be designated by the committee, and upon forms made available by it, a written application for a prorate base and for allotments as provided herein.

27. Delete paragraph (d) (7) of § 966.6 of the order and substitute therefor the following:

(7) Each week during the marketing season for any variety of oranges, unless volume proration is then suspended, the committee shall compute the total quantity of such oranges available for current shipment by each person who has applied for a prorate base and for allotments, and shall transmit a report thereof to the Secretary. Such report shall constitute the recommendation of the committee for a prorate base for each such person. If prorate districts are established pursuant to § 966.7, the said computations and reports shall be made on the basis of the total quantity of the applicable variety of oranges available for current shipment by each such person in each such prorate district. Such computations and reports shall be prepared and submitted during the week prior to the week when the recommended prorate bases are to become applicable.

28. Delete paragraph (d) (7) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(7) Each week during the marketing season for any variety of oranges, unless volume proration is then suspended, the committee shall compute the total quantity of such oranges available for current shipment by each person who has applied for a prorate base and for allotments, and shall transmit a report thereof to the Secretary. Such report shall constitute the recommendation of the committee for a prorate base for each such person. If prorate districts are established pursuant to section 5, the said computations and reports shall be made on the basis of the total quantity of the applicable variety of oranges available

for current shipment by each such person in each such prorate district. Such computations and reports shall be prepared and submitted during the week prior to the week when the recommended prorate bases are to become applicable.

29. Delete paragraph (i) of § 966.6 of the order and paragraph (i) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(i) *Assignment of allotments.* Whenever volume proration is in effect, any person who acquires oranges and who does not have a prorate base for such oranges may handle such oranges pursuant to an assignment or an agreement from the person from whom such oranges are acquired. Such assignments of allotments shall be only in amounts equal to the quantity of oranges, and shall cover the same variety of oranges, so acquired. Any such assignments of allotments shall be evidenced by a certificate which shall be in such form and issued in such manner as may be required by the committee. The committee shall provide for an equitable system by means of which persons to whom allotments have been assigned may handle the oranges covered by such assignments in amounts less than the quantity included in the certificates of assignment. The handling of oranges covered by an assignment issued pursuant hereto shall be such as to qualify for undershipments pursuant to (g) of this section. No allotment may be assigned, transferred, or otherwise disposed of except in accordance with the provisions hereof.

30. Add to § 966.6 of the order and to section 4 of the tentatively approved marketing agreement the following:

(n) *Recommendations for grade and size regulation.* (1) Whenever the committee finds that the supply and demand conditions for grades or sizes of oranges make it advisable to regulate the shipment of particular grades or sizes of oranges during any period of time, it shall recommend the particular grades or sizes thereof, or both the particular grades and sizes thereof, deemed advisable to be shipped during such period of time. The committee shall promptly report such findings and recommendations, together with supporting information, to the Secretary.

(2) In making its recommendations the committee shall give due consideration to the factors referred to in (b) (2) of this section.

(c) *Issuance of grade and size regulation.* Whenever the Secretary shall find, from the findings, recommendations, and information submitted by the committee, or from other available information, that to limit the shipment of oranges to particular grades or sizes, or to both particular grades and sizes, would tend to effectuate the declared policy of the act, he shall so limit the shipments of oranges during the specified period of time. The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give adequate notice thereof to all handlers.

(p) Whenever grade or size regulation is, or both grade and size regulations are, in effect, volume regulations shall be automatically suspended.

The following amendments have been proposed by the California Fruit Growers Exchange, Los Angeles, California:

31. Add to § 966.3 of the order and to section 1 of the tentatively approved marketing agreement the following:

(o) "Exports" means shipments to points outside the continental United States, Canada and Alaska.

(p) "Diversion" means movement of fruit for byproduct purposes, for consumption by charitable institutions, for distribution by relief agencies, and for other removal from commercial fresh fruit channels.

32. Delete paragraph (j) of § 966.3 of the order and paragraph (j) of section 1 of the tentatively approved marketing agreement and substitute therefor the following:

(j) "Handle" means to buy, sell, consign, transport, ship (except as a common carrier of oranges owned by another person), or in any other way to place oranges in fresh form in the current of commerce between the State of California and any point outside thereof in the continental United States, Alaska, or Canada, or within the State of California, or between the State of Arizona and any point outside thereof in the continental United States, Alaska, or Canada, or within the State of Arizona, or so as directly to burden, obstruct, or affect such commerce. The term "handle" does not include the shipment of oranges to by-product processing plants for processing in the area of production, that is, from California to Arizona or within California, or from Arizona to California or within Arizona, but does include such shipment from the area of production to any other point.

33. Delete paragraph (j) (2) of § 966.4 of the order and paragraph (j) (2) of section 2 of the tentatively approved marketing agreement and substitute therefor the following:

(2) To appoint a marketing economist and such other employees, agents and representatives as it may deem necessary, and to determine the compensation and to define the duties of said marketing economist and of such other employees.

34. Delete paragraph (a) (1) of § 966.6 of the order and paragraph (a) (1) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(1) For the purposes of this section the year shall be divided into three diversion periods, namely: diversion period I, beginning with the week following the week ending nearest to November 15 and terminating with the week ending nearest to February 1; diversion period II, beginning immediately thereafter and terminating with the week ending nearest to May 10; and diversion period III, beginning immediately thereafter and terminating with the week ending nearest to November 15. Prior to the beginning of each period the committee shall prepare a report setting forth its proposed policy for the marketing of oranges within the period, including such determinations as are made under (c) hereof. In the event it becomes advisable to modify such marketing policy, because of changed demand and supply conditions, the committee shall submit a report showing such modifications and the reasons therefor.

35. Insert after paragraph (b) (3) of § 966.6 of the order and after paragraph (b) (3) of section 4 of the tentatively approved marketing agreement the following designated as paragraph (c) and redesignate the respective subsequent paragraphs so as to follow in proper alphabetical sequence:

(c) *Recommendation for surplus diversion.* (1) For the purposes of this section the year shall be divided into three diversion periods as set forth in (a) above. Prior to the beginning of period I the committee shall establish for the year for each variety and prorate district a percentage for each diversion period which will express for each diversion period its portion of the total crop year movement in fresh fruit channels. This percentage shall be obtained by taking the average percentage for each diversion period for the ten years immediately preceding the crop year for which recommendations are being made.

(2) Prior to the beginning of each diversion period, in order to determine the total quantity of oranges available for movement in all outlets, exclusive of exports, during a given diversion period, the committee shall determine the tree crop for each variety and prorate district which shall then be divided between diversion periods I, II, and III according to the percentages for each diversion period as determined in (1) above and shall then subtract the estimated exports to be made for each variety and prorate district during the diversion period, except as provided in (18).

(3) Prior to the beginning of each diversion period the committee shall determine the total quantity of oranges which it estimates can be marketed in commercial fresh fruit channels, exclusive of exports, in order to obtain grower returns consistent with the declared policy of the act.

(4) For a given diversion period the difference between the total quantity of oranges to be marketed in all outlets, exclusive of exports, as determined in (2) above and the estimated quantity of oranges which can be moved in all commercial fresh fruit outlets, exclusive of exports, as determined in (3) above shall be the quantity of oranges considered as the surplus for diversion. The committee shall recommend to the Secretary a specific diversion percentage for the diversion period obtained by dividing the quantity surplus so calculated by the total quantity of oranges available for movement in all outlets, exclusive of exports, as determined in (2) above. This percentage shall not be changed after the beginning of the diversion period.

(5) During each diversion period each handler shall divert during each week a quantity of oranges without respect to variety equal to the product of the recommended diversion percentage and the total quantity of oranges without respect to variety disposed of by the handler in all channels, exclusive of exports, during the week except as further provided for in (8) below.

(6) Fruit credited for diversion shall be free from decay and the committee shall establish suitable standards and tolerances for this purpose.

(7) Each handler shall provide such evidence as the committee shall establish to be acceptable that the required diversion has been properly made. Where adequate facilities for inspection are not available, the committee shall provide such facilities at the handler's expense.

(8) Each handler may elect in lieu of making the required diversion during a given week to deposit cash or bond with satisfactory surety with the committee in an amount per packed equivalent box to be set by the committee sufficient to cover the amount of his required diversion which has been deferred. Such deposit shall be credited to the account of the handler. No handler shall be required to have on deposit with the committee at any time more cash or bond than is necessary to cover that portion of the cumulated total of his required diversion since the beginning of the diversion period which he has failed actually to make. Deposits made under this section are separate from and in addition to any assessments made under § 966.5 (section 3 of the tentatively approved marketing agreement).

(9) Cash or bond with satisfactory surety may be deposited with the committee in advance but must be deposited with the committee no later than the date on which the committee requires the submission of the weekly reports.

(10) Prior to the beginning of each diversion period the committee shall recommend to the Secretary the rate of deposit per packed equivalent box for under diversion. The rate shall not be less than 50 percent of the on-tree parity price at that time and shall be sufficiently high to furnish an incentive for the handlers to make the required diversion and to protect handlers who do divert the required percentage. The deposit rate shall not be changed during the diversion period.

(11) At the end of a diversion period the committee shall determine for each handler the total amount of fruit disposed of, exclusive of exports, and the total amount of actual diversion up to but not exceeding the recommended diversion. The actual average diversion percentage for the period shall be determined by dividing the sum of the actual diversion up to but not exceeding the recommended diversion made by all handlers by the sum of the total amount of fruit disposed of, exclusive of exports, by all handlers as set forth above.

(12) The difference between the total actual diversion up to but not exceeding the recommended diversion made by each handler within the diversion period and an amount obtained by multiplying the total amount of fruit disposed of, exclusive of exports, by each handler during the diversion period by the actual average diversion percentage shall hereinafter be referred to as the handler's under or over diversion for the diversion period.

(13) The handler's account shall be debited for each box of under diversion at the deposit rate set by the Secretary. If the handler's deposits of cash are less than this debit the committee shall notify the handler and the handler shall promptly deposit sufficient cash to make up the deficiency. If a bond has been furnished in lieu of cash the committee shall have recourse to the bond if the handler fails to deposit sufficient cash to meet the entire debit for under diversion.

(14) The handler's account shall be credited for each box of over diversion, not to exceed the recommended diversion, at the deposit rate set by the Secretary.

(15) The committee shall close the accounts for the diversion period by distributing to each handler the net amount credited to such handler. (The effect of this closing payment is to refund to all handlers the difference between the amount on deposit using the recommended diversion percentage and the amount required using the actual average diversion, and at the same time to equalize the debits and credits between handlers for over diversion and under diversion.)

(16) During a diversion period the committee shall in so far as possible recommend sufficient allotment so that no handler for lack of allotment shall be compelled to divert more than the recommended diversion percentage. If a handler is not granted this opportunity during a diversion period then the committee shall grant additional allotment sufficient to make up the deficiency during the next diversion period and fruit disposed of under such dispensation shall be considered by the committee as being disposed of during the earlier diversion period.

(17) When any handler packs fruit in a given diversion period for fresh shipment, exclusive of exports, during the succeeding diversion period, the handler may apply to the committee and the committee shall certify a quantity of diverted fruit to apply against the diversion required on the fruit of the same crop and variety to be shipped during the next succeeding diversion period. Fruit so certified shall be considered by the committee as being disposed of during the diversion period into which it is certified to apply against diversion requirements.

(18) When the Secretary establishes the diversion percentage for a diversion period, pursuant to (4) above, the committee shall then recommend the issuance of allotments throughout the diversion period at least sufficient to allow the fresh fruit shipments resulting from the diversion percentage to be made during the diversion period: *Provided, however,* That if circumstances should occur so affecting the conditions to be expected in any diversion period that a portion of the fruit normally available to be disposed of during one diversion period can be shifted into either the succeeding diversion period or the preceding diversion period without causing undue burden to the fruit which would normally be marketed at that time, the committee may make such adjustments as would be necessary to accomplish such a shift. Fruit so shifted shall be considered by the committee as being disposed of during the diversion period in which it would have normally been disposed of and from which it was shifted.

36. Delete paragraph (h) (1) of § 966.6 of the order, redesignated in accordance with proposed amendment 35 as paragraph (i) (1), and substitute therefor the following:

(h) *Allotment loans.* A person to whom allotments have been issued may lend such allotments through the committee to other persons to whom allotments have been issued: *Provided,* That such allotment loan transactions are confined to the same variety of oranges and, if prorate districts are established pursuant to § 966.7, to the same district. Persons desiring such transfers of allotment, either as transferor or transferee, shall apply to the committee, and the committee wherever possible shall arrange allotment loans upon such application. In each case the committee shall confirm all such transactions immediately after the completion thereof by memorandum addressed to the parties concerned. Such memorandum shall include a provision for the repayment of such allotments during the then current marketing season.

37. Delete paragraph (h) (1) of section 4 of the tentatively approved marketing agreement, redesignated in accordance with proposed amendment 35 as paragraph (i) (1), and substitute therefor the following:

(h) *Allotment loans.* A person to whom allotments have been issued may lend such allotments through the committee to other persons to whom allotments have been issued; *Provided,* That such allotment loan transactions are confined to the same variety of oranges and, if prorate districts are established pursuant to section 5, to the same district. Persons desiring such transfers of allotment, either as transferor or transferee, shall apply to the committee, and the committee wherever possible shall arrange allotment loans upon such application. In each case the committee shall confirm all such transactions immediately after the completion thereof by memorandum addressed to the parties concerned. Such memorandum shall include a provision for the repayment of such allotments during the then current marketing season.

38. Delete paragraph (k) of § 966.3 of the order and substitute therefor the following:

(k) "Oranges available for current shipment for a handler" means all oranges of a variety as measured by the total tree crop after general maturity for the variety and prorate district is reached as determined by the committee. Prior to the time at which general ma-

turity is reached for a variety and prorate district, only that portion of the tree crop controlled by a handler which has reached maturity as defined by State regulation shall be considered as available for current shipment. If regulations pursuant to § 966.6 become effective after the beginning of a marketing season for any variety of oranges, the term shall include all oranges which are within the area of production.

39. Delete paragraph (k) of section 1 of the tentatively approved marketing agreement and substitute therefor the following:

(k) "Oranges available for current shipment for a handler" means all oranges of a variety as measured by the total tree crop after general maturity for the variety and prorate district is reached as determined by the committee. Prior to the time at which general maturity is reached for a variety and prorate district, only that portion of the tree crop controlled by a handler which has reached maturity as defined by State regulation shall be considered as available for current shipment. If regulations pursuant to section 4 become effective after the beginning of a marketing season for any variety of oranges, the term shall include all oranges which are within the area of production.

40. Delete paragraph (k) of § 966.6 of the order and paragraph (k) of section 4 of the tentatively approved marketing agreement, redesignated in accordance with proposed amendment 35 as paragraph (1), and substitute therefor the following:

(k) Handlers having fruit of advanced maturity or short life may apply to the committee for allotment to be issued to such handlers to allow their fruit to be handled during its normal marketing period. Such application shall be accompanied by complete information supporting the existence of such advanced maturity or short life. The committee shall determine on the basis of all available information the extent to which a handler requires allotment in addition to his regular allotment in order to move in regulated channels during the normal life of his fruit a percentage of his total quantity of oranges disposed of comparable to the percentage handled in regulated channels by all handlers of the variety and prorate district under consideration, and shall grant allotment in accordance with their determination provided that the sum of all such total quantities to be granted to various handlers of the same variety and prorate district shall not exceed two percent of all the allotment to be issued to all handlers of the same variety and prorate district during the marketing period. The total quantity of additional allotment to be granted to the handler for advanced maturity or short life shall be deducted in weekly amounts, determined by the committee, from the regular allotment which would normally be given to the handler during the last several weeks of the varietal shipping season as determined from a tentative schedule of shipments. The total quantity of additional allotment to be granted to the handler shall be distributed throughout his shipping season for the variety by adding a constant percentage to his regular weekly allotments after adjustment of the last several weeks as provided above. The committee may modify the additional allotment for a handler at any time during the season if a change in conditions makes it necessary. If additional allotment for advanced maturity or short life is once granted to a handler upon his application, it shall not be necessary for the handler to reapply each season, but the committee shall consider that he does apply and shall determine each season the existence and extent of the handler's need for such allotment.

41. Delete § 966.8 of the order and substitute therefor the following:

§ 966.8 *Oranges not subject to regulation.* Nothing contained herein shall be construed to authorize any limitation of the right of any person to handle oranges (a) for consumption by charitable institutions or for distribution by relief agencies; (b) for conversion into byproducts; (c) for export; (d) for shipment by parcel post or by railway express in less than carload lots; or (e) for distribution as a gratuity in units of five boxes or less. No assessments shall be levied pursuant to § 966.5 on oranges disposed of for the purposes specified in this section. The committee shall prescribe adequate safeguards to insure that the provisions of this order are not violated, intentionally or otherwise, by the entry into commercial fresh fruit channels of trade of oranges disposed of for the purposes designated in this section.

42. Delete section 6 of the tentatively approved marketing agreement and substitute therefor the following:

SEC. 6. *Oranges not subject to regulation.* Nothing contained herein shall be construed to authorize any limitation of the right of any person to handle oranges (a) for consumption by charitable institutions or for distribution by relief agencies; (b) for conversion into byproducts; (c) for export; (d) for shipment by parcel post or by railway express in less than carload lots; or (e) for distribution as a gratuity in units of five boxes or less. No assessments shall be levied pursuant to section 3 on oranges disposed of for the purposes specified in this section. The committee shall prescribe adequate safeguards to insure that the provisions of this order are not violated, intentionally or otherwise, by the entry into commercial fresh fruit channels of trade of oranges disposed of for the purposes designated in this section.

43. Delete paragraph (a) of § 966.9 of the order and paragraph (a) of section 7 of the tentatively approved marketing agreement and substitute therefor the following:

(a) *Weekly report.* On or before such day of each week as may be designated by the committee, each handler shall report to the committee, in such manner as may be designated and on forms made available by it, the following information with respect to each variety of oranges disposed of by each such handler during the immediately preceding week: (1) The total quantity handled; (2) the total quantity disposed of for manufacture into by-products, showing the identity of each by-products processor involved and the quantity to each; (3) the total quantity disposed of for export, showing the destination and quantity of each such disposition; (4) the total quantity shipped for disposition to persons on relief, including quantity donated for charitable purposes, showing the destination and quantity of each such shipment; and (5) the total quantity disposed of otherwise, showing manner and quantity of each such disposition. As to each such handler, the total of all these five categories shall be the total of all oranges of each variety disposed of by said handler.

44. Delete paragraph (c) of § 966.6 of the order, redesignated in accordance with proposed amendment 35 as paragraph (d), and substitute therefor the following:

(c) *Issuance of regulations.* Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of any variety of oranges which may be handled during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity. In the event prorate districts are established pursuant to § 966.7, the Secretary, upon the basis of the recommendations and information submitted by the commitee, or from other available information, shall fix the quantity of each variety of oranges grown in each such prorate district which may be handled during such week. The quantity so fixed may be increased by the Secretary at any time during such week. Upon the basis of the recommendations and information submitted by the committee, or from other available information, the Secretary shall fix a specific diversion percentage for each diversion period hereinbefore described, and he shall also fix, upon the basis of the recommendations and information submitted by the committee or from other available information, the rate of deposit per packed equivalent box for under diversion.

45. Delete paragraph (c) of section 4 of the tentatively approved marketing agreement, redesignated in accordance with proposed amendment 35 as paragraph (d), and substitute therefor the following:

(c) *Issuance of regulations.* Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of any variety of oranges which may be handled during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity. In the event prorate districts are established pursuant to section 5, the Secretary, upon the basis of the recommendations and information submitted by the committee, or from other available information, shall fix the quantity of each variety of oranges grown in each such

prorate district which may be handled during such week. The quantity so fixed may be increased by the Secretary at any time during such week. Upon the basis of the recommendations and information submitted by the committee, or from other available information, the Secretary shall fix a specific diversion percentage for each diversion period hereinbefore described, and he shall also fix, upon the basis of the recommendations and information submitted by the committee or from other available information, the rate of deposit per packed equivalent box for under diversion.

The following amendment has been proposed by the Independent Citrus Growers and Shippers Association, Los Angeles, California:

46. Delete paragraph (d) (5) of § 966.6 of the order and paragraph (d) (5) of section 4 of the tentatively approved marketing agreement and substitute therefor the following:

(5) If any person gains or loses control of oranges as required by (d) (3) of this section, there shall be a corresponding increase or decrease in the quantity of oranges available for current shipment by such person, as of the date when such change of control takes place.

The Fruit and Vegetable Branch, Production and Marketing Administration, has proposed that consideration be given to such other changes in the provisions of the order and the tentatively approved marketing agreement as may be necessary to make the entire order and tentatively approved marketing agreement conform with the proposed amendments contained in this notice of hearing.

Copies of this notice of hearing may be obtained from the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., or from the Fruit and Vegetable Branch, Production and Marketing Administration, 1206 Santee Street, 12th Floor, Los Angeles 15, California.

Done at Washington, D. C., this 9th day of March 1948.

[SEAL] F. R. BURKE,
Acting Assistant Administrator.

[F. R. Doc. 48-2190; Filed, Mar. 11, 1948; 8:47 a. m.]

[7 CFR, Part 975]

[Docket No. AO-179-A3]

CLEVELAND, OHIO, MILK MARKETING AREA

NOTICE OF HEARING ON HANDLING OF MILK; PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure, as amended (7 CFR, Supps. 900.1 et seq.; 12 F. R. 1159, 4904), notice is hereby given of a public hearing to be held at the Allerton Hotel, 13th Street and Chester Avenue, Cleveland, Ohio, beginning at 10:00 a. m., e. s. t., March 18, 1948, for the purpose of receiving evidence with respect to proposed amendments to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Cleveland, Ohio, milk marketing area (12 F. R. 5840). These proposed amendments have not received the approval of the Secretary of Agriculture.

The following amendments have been proposed:

By The Milk Producers Federation of Cleveland:

1. Delete § 975.3 (a) (3) (i) which reads: "On 14 or more days in a total amount equal to 10% or more of its entire receipts of milk from dairy farmers during each such delivery period; or."

2. Delete from § 975.3 (a) (3) the following words: "(1) any such plant meeting the requirements set forth in (i) and (ii) above may become a pool plant beginning with the fourth consecutive delivery period within which such requirements have been met if prior request for pool plant status has been made to the market administrator by the plant operator; and (2)."

3. Amend § 975.3 (c) (2) by striking out the figure "10" in the first line and insert in lieu thereof the figure "50."

4. Delete the first and second provisos of § 975.6 (b) (1) and substitute therefor the following: *"Provided,* That in the calendar year 1948 the amount added to the basic formula shall be $1.15 for each month."

5. Delete § 975.6 (d) (3) (i), (ii), (iii), and (iv) and substitute therefor the following:

(i) Multiply by 3.5 the average wholesale price per pound of 92 score butter at Chicago, as reported by the Department of Agriculture for the delivery period; add 40.

(ii) Subtract such result from the higher of prices computed pursuant to (a) (1) or (a) (2) of this section.

(iii) Divide the result by 0.965 and round off to the nearest full cent.

By The Milk Market Survey Committee of Cleveland, Ohio:

6. In § 975.3 (a) add in the third line after the word "except" the following: "an ice cream plant operated either by a pool handler or a non-pool handler, and."

7. Delete § 975.5 (b) (1) (ii) in its entirety.

8. Amend § 975.5 (b) (3) (i) by adding the following at the end of said section: "bulk milk, cream and skim milk transferred to a manufacturer of soup, candy or bakery products for use in such manufacturing operations,"

9. Amend § 975.5 (d) (3) to read as follows: "as Class I milk if transferred in bulk form to any retail establishment which disposes of milk in fluid form."

10. Amend § 975.5 (e) (2) by adding the following words to the end of said section: ", except that such skim milk or butterfat placed in storage for a period of at least sixty (60) days shall not be so reclassified when reused."

11. In § 975.5 (g) (2) (i) change "105%" in the second line to "115%."

12. Amend § 975.6 (a) (3) (ii) by adding the following after the word "Agriculture" in the fifth line of said section: "to be announced weekly by the Market Administrator,"

13. Amend § 975.6 (c) to revise the method of computing the price per hundredweight of Class II milk so as to reflect a price in line with its competitive value in such Class II uses.

14. Delete § 975.6 (d) (2) and substitute the following: "The price per hundredweight of skim milk (calculated to the nearest full cent) shall be the average carlot price per pound of nonfat dry milk solids for human consumption, roller process, f. o. b. manufacturing plants, as published for the Chicago area for the delivery period by the Department of Agriculture, to be announced weekly by the Market Administrator, less 5.5 cents and then multiplied by 8.5; and"

15. Delete § 975.6 (d) (3) in its entirety.

16. Delete § 975.8 (b).

17. Amend § 975.6 (b) (1) to read as follows: "Add to the basic formula price the following amount for the delivery peroid indicated; January, February, August and September $1.30; March and April $1.00; May and June $0.85; July $1.15; and October, November and December $1.45: *Provided,* That the minimum price of sweet or sour cream or of any mixture of cream and milk (or skim milk) in Class I milk shall be the price otherwise applicable pursuant to this subparagraph less fifteen cents."

By The Wayne Cooperative Milk Producers, Inc.:

By The Milk Market Survey Committee of Cleveland, Ohio:

18. Amend § 975.7 (b) to provide as follows:

With respect to the actual weight of Class I milk, Class II milk, and bulk milk moved from a pool plant to a plant and there utilized in the manufacture of a Class III product, there shall be deducted, in the computation of the handler's pool value, the following amount per cwt. thereof applicable for the location of such plant by shortest highway distance from the shipping plant to the receiving plant, such distance to be determined by the Market Administrator:

Mileage zone	*Cents per hundredweight*
Not more than 30 miles	0
More than 30 miles but not more than 45 miles	15
More than 45 miles but not more than 60 miles	17
More than 60 miles but not more than 75 miles	19
More than 75 miles but not more than 90 miles	21
Within each 15 miles zone thereafter an additional 1 cent.	

Provided, That such adjustment shall be limited to an amount of milk, cream, or other item so moved which could be derived from the milk received from producers at such plant.

By The Dairy Branch, Production and Marketing Administration:

19. Make such other changes as may be required to make the entire marketing

agreement and order as amended, conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and of the tentative marketing agreement and order, as amended, now in effect may be procured from the Market Administrator, 2163 East Second Street, Cleveland 15, Ohio, or from the Hearing Clerk, United States Department of Agriculture, in Room 1844, South Building, Washington 25, D. C., or may be there inspected.

Dated: March 9, 1948.

[SEAL] F. R. BURKE,
Acting Assistant Administrator.

[F. R. Doc. 48-2191; Filed, Mar. 11, 1948; 8:48 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR, Part 516]

RECORDS TO BE KEPT BY EMPLOYERS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C., Sup., 1001-1011), that the Administrator of the Wage and Hour Division, United States Department of Labor, proposes to amend the regulations contained in this part in the manner hereinafter set forth. Prior to the final adoption of such amendments, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., within 30 days from publication of this notice in the FEDERAL REGISTER. Four copies of all written material should be submitted. The proposed amendments are to be issued under the authority contained in section 11 (c) of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U. S. C. 201). They are as follows:

1. Substitute "2080" for "2000" in subparagraph (2) of paragraph (a) of § 516.3 so that the language up to the semicolon will read:

(2) On an annual basis in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that the employee shall not be employed more than 2080 hours during any period of 52 consecutive weeks;

2. Substitute "2080" for "2000" in subdivision (ii) of subparagraph (2) of paragraph (c) of § 516.3 so that the subparagraph will read:

(2) Indicating the period or periods during which the employee, pursuant to an agreement, has been or is employed for either,

(i) Not more than 1000 hours during any period of 26 consecutive weeks, or

(ii) On an annual basis and for not more than 2080 hours during any period of 52 consecutive weeks, and

3. Delete the words "and hour" from subparagraph (1) of paragraph (d) of § 516.11 so that the subparagraph will read:

(1) Date on which work is given out to worker, and amount of such work given out.

4. Delete the words "and hour" from subparagraph (2) of paragraph (d) of § 516.11 so that the subparagraph will read:

(2) Date on which work is returned by worker, and amount of such work returned,

5. Delete the word "four" and the number "4" where used in § 516.14 and insert in their respective places the word "three" and the number "3" so that this section will read:

§ 516.14 *Records to be preserved three years.* (a) Each employer shall preserve for at least 3 years:

(1) *Pay roll records.* From the last date of entry, all those pay roll or other records containing the employee information and data required under any of the applicable §§ 516.2-516.13, and

(2) *Certificates, union agreements, and notices.* From their last effective date, all those certificates, union agreements and amendments or additions thereto, and notices listed or named in these same applicable sections.

Signed at Washington, D. C., this 8th day of March 1948.

F. GRANVILLE GRIMES, Jr.,
Acting Administrator,
Wage and Hour Division.

[F. R. Doc. 48-2188; Filed, Mar. 11, 1948; 8:46 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 10706]

SEKIJIRO NAKAMURA

In re: Estate of Sekijiro Nakamura, deceased. File No. D-39-19123.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mrs. Hatsu Miyamoto, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the sum of $91.31 in the possession, custody or control of A. S. Carvalho, Clerk, Third Circuit Court, Hilo, T. H., for the account of Mrs. Hatsu Miyamoto, as her distributive share from the Estate of Sekijiro Nakamura, Probate No. 1609, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on acount of, or owing to, or claimed by the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 16, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-2194; Filed, Mar. 11, 1948; 8:48 a. m.]

[Vesting Order 10730]

HEDWIG A. CURTIS

In re: Estate of, and trust under will of Hedwig A. Curtis, deceased. File No. D-28-9329; E. T. sec. 12326.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hedwig Tewes and Ilse Keferstein Tewes, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the legal heirs, names unknown, of Hedwig Tewes and of Ilse Keferstein Tewes, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Hedwig A. Curtis, deceased, and in and to the trust under the will of Hedwig A. Curtis, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by the City National Bank of Duluth, Duluth, Minnesota, as executor and Trustee, acting under the judicial supervision of the Probate Court, St. Louis County, State of Minnesota,

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof, and the legal heirs, names unknown, of Hedwig Tewes and of Ilse Keferstein Tewes, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 24, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-2166; Filed, Mar. 10, 1948; 8:47 a. m.]

[Vesting Order 10758]

MICHAEL SCHONHER

In re: Estate of Michael Schonher, also known as Michael Schoener, deceased. File No. D-34-815; E. T. sec. 12761.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Terezia Gölti, also known as Terrisa Gottl, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the Estate of Michael Schonher, also known as Schoener, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by R. W. Allard, and Minnie Plaster, administrators, acting under the judicial supervision of the Probate Court of Ramsey County, St. Paul, Minnesota;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 27, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-2196; Filed, Mar. 11, 1948; 8:48 a. m.]

[Vesting Order 10759]

GUSTAV A. SCHULWITZ

In re: Estate of Gustav A. Schulwitz, also known as Gustav Schulwitz, deceased. File No. D-28-10700; E. T. sec. 15042.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Carl Schulwitz, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the heirs, next-of-kin, legatees, distributees, names unknown of Gustav A. Schulwitz, also known as Gustav Schulwitz, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Gustav A. Schulwitz, also known as Gustav Schulwitz, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by William I. O'Neill as administrator acting under the judicial supervision of the County Court of Milwaukee, In Probate, State of Wisconsin;

and it is hereby determined:

5. That to the extent that the person named in sub-paragraph 1 hereof and the heirs, next-of-kin, legatees, distributees, names unknown of Gustav A. Schulwitz, also known as Gustav Schulwitz, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 27, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-2197; Filed, Mar. 11, 1948; 8:49 a. m.]

[Vesting Order 10761]

MARTHA GADSKI

In re: Debt owed to Martha Gadski, also known as Martha Gaski, and as Martha Gadaski.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Martha Gadski, also known as Martha Gaski, and as Martha Gadaski, whose last known address is 17 Fischpfortenstrasse, Hameln, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation evidenced by a check issued by the Fidelity Trust Company, Pittsburgh, Pennsylvania, said check in the amount of $4,348.61, numbered 570786, dated August 1, 1947, payable to the order of Alien Property Custodian, and presently in the custody of the Attorney General, together with any and all rights to demand, enforce and collect the aforesaid debt, and any rights in and under the aforesaid check including the right to present for payment,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Martha Gadski, also known as Martha Gaski, and as Martha Gadaski, the aforesaid

national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on February 27, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-2198; Filed, Mar. 11, 1948; 8:49 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 2021]

ALASKA AIRLINES, INC.; RETROACTIVE MAIL RATES

NOTICE OF ORAL ARGUMENT

Alaska Airlines, Inc., on September 4, 1945, having, by petition, as amended April 9, 1947, requested that the Board fix, determine, and publish a rate of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith over its entire system of air mail routes, such rate to be effective as of January 1, 1943;

The Postmaster General of the United States by motion filed December 23, 1947, having requested the dismissal of said petition of Alaska Airlines, Inc., insofar as it seeks the establishment of a rate for any period prior to the date of the filing of petition therefor, by Alaska Airlines, Inc.;

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, and particularly sections 406 and 1001 of said act that oral argument on the petition of Alaska Airlines, Inc., and the motion of the Postmaster General is hereby assigned to be held on April 5, 1948 at 10:00 o'clock a. m. (eastern standard time) in Room 5042, Commerce Building, Washington, D. C., before the Board.

Dated at Washington, D. C. March 8, 1948.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 48-2201; Filed, Mar. 11, 1948; 8:49 a. m.]

FEDERAL POWER COMMISSION

[Project No. 16]

NIAGARA FALLS POWER CO.

NOTICE OF APPLICATION FOR AMENDMENT OF LICENSE

MARCH 8, 1948.

Public notice is hereby given, pursuant to the provisions of the Federal Power Act (16 U. S. C. 791-825r), that The Niagara Falls Power Company has made application for amendment of license for its hydroelectric power development located at Niagara Falls, New York (Project No. 16), by modifying Article 11 concerning the amortization reserve provisions required by section 10 (d) of the Act, and by modifying Articles 2 and 8 of the license concerning annual charges required by section 10 (e) of the act.

Any protest against the removal of this application or request for hearing thereon, with the reasons for such protest or request, and the name and address of the party or parties so protesting or requesting, should be permitted before April 12, 1948, to the Federal Power Commission, Washington 25, D. C.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-2184; Filed, Mar. 11, 1948; 8:45 a. m.]

[Docket No. G-976]

NEW YORK STATE NATURAL GAS CORP.

NOTICE OF SUPPLEMENT TO APPLICATION

MARCH 8, 1948.

Notice is hereby given that on February 20, 1948, New York State Natural Gas Corporation (Applicant), a New York corporation with its principal place of business at New York, New York, filed a supplement to its application, at Docket No. G-976, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of natural-gas transmission facilities, in addition to those applied for in the original application herein, notice of which was sent to all interested persons and published in the FEDERAL REGISTER on December 19, 1947 (12 F. R. 8661).

The additional facilities proposed in this amendment consist of a measuring and regulating station, together with the necessary connections, to be installed on the Matthew Mess property in the Town of Wellsville, and a measuring and regulating station, together with the necessary connections, to be installed on the Fanton farm in the Town of Willing, both in Allegany County, New York, for the purpose of supplying additional quantities of natural gas to Empire Gas and Fuel Company, Ltd. (Empire Ltd.) under the terms of a supplemental agreement between Applicant and Empire Ltd. dated August 29, 1947.

Applicant recites that it has been selling natural gas to Empire Ltd. to meet the requirements of the latter company for approximately 12 residential customers in Allegany County, New York. Applicant states that it has agreed to supply additional quantities of natural gas to Empire Ltd. at the two additional delivery points hereinbefore described to meet part of the requirements of Empire Ltd. in Allegany and Steuben Counties, New York.

Applicant states that it proposes to commence delivery of natural gas through the said two additional delivery points on July 1, 1948, or as soon thereafter as certain conditions set forth in its agreement with Empire Ltd. are met.

The application states that Empire Ltd. expects to purchase approximately 77,445 Mcf of natural gas in 1948 (assuming deliveries at the two additional delivery connections commence July 1, 1948); 736,500 Mcf in 1949; and 816,500 Mcf in 1950.

Applicant estimates the total over-all cost of construction of the two additional regulating and metering stations hereunder, together with the necessary connections is, $23,000, which will be paid from cash on hand.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's Rules of Practice and Procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application, as supplemented, of New York State Natural Gas Corporation is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application, as supplemented, shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rule 8 or 10, whichever is applicable, of the rules of practice and procedure (as amended on June 16, 1947) (18 CFR 1.8 and 1.10).

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-2182; Filed, Mar. 11, 1948; 8:49 a. m.]

FEDERAL TRADE COMMISSION

[File No. 21-410]

FINE AND WRAPPING PAPER DISTRIBUTING INDUSTRY

NOTICE OF HOLDING OF TRADE PRACTICE CONFERENCE

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 9th day of March 1948.

In the matter of trade practice conference for the Fine and Wrapping Paper Distributing Industry.

Notice is hereby given that a trade practice conference will be held by the Federal Trade Commission for the Fine and Wrapping Paper Distributing Industry in the Hotel Waldorf-Astoria, 50th Street and Park Avenue, New York City, on April 5, 1948, commencing at 2 p. m., e. s. t.

The industry's merchandise consists of a variety of paper products collectively coming within the group known as fine and wrapping paper, envelopes, cardboard, and many other paper articles. Members of the industry are the persons, firms, corporations, or organizations engaged in wholesaling, jobbing, or distributing such products. All persons or concerns so engaged are invited to attend or be represented at the conference and to take part in the proceedings. The conference and further proceedings in this matter will be directed toward the eventual establishment and promulgation by the Commission of trade practice rules for the industry, under which unfair methods of competition, unfair or deceptive acts or practices, and other trade abuses may be eliminated and prevented.

By the Commission.

[SEAL] WILLIAM P. GLENDENING, Jr.,
Acting Secretary.

[F. R. Doc. 48-2187; Filed, Mar. 11, 1948; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 790, Amdt. 17 to Corr. Special Directive 1]

PENNSYLVANIA RAILROAD CO.

DIRECTIVE TO FURNISH CARS FOR RAILROAD COAL SUPPLY

Upon further consideration of the provisions of Special Directive No. 1 (12 F. R. 7950), under Service Order No. 790 (12 F. R. 7791), and good cause appearing therefor:

It is ordered, That Special Directive No. 1, be, and it is hereby amended by changing Appendix A of Amendment No. 15 as follows:

	Cars per day
Mine: Shasta	8

A copy of this amendment shall be served upon The Pennsylvania Railroad Company and notice of this amendment shall be given the public by depositing a copy in the office of the Secretary of the Commission, Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

Issued at Washington, D. C., this 5th day of March A. D. 1948.

INTERSTATE COMMERCE COMMISSION,
HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 48-2186; Filed, Mar. 11, 1948; 8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-1753]

DALLAS POWER & LIGHT CO. AND TEXAS UTILITIES CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C. on the 5th day of March A. D. 1948.

Notice is hereby given that an application-declaration, and an amendment thereto, has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") by Texas Utilities Company ("Texas Utilities") and its electric utility subsidiary Dallas Power & Light Company ("Dallas"). Texas Utilities Company is a registered holding company subsidiary of American Power & Light Company, a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company. Applicants-declarants have designated sections 6 (a), 7, 9 (a), 10, and 12 (f) of the act and Rules U-43 and U-50 thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than March 16, 1948, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues, if any, of fact or law raised by said application-declaration, as amended, which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed as follows: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after 5:30 p. m., e. s. t., on March 16, 1948, said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

All interested persons are referred to said application-declaration, as amended, which is on file in the offices of this Commission, for a statement of the transactions therein proposed which may be summarized as follows:

Dallas proposes to offer to the holders of its outstanding Common Stock the right to subscribe for and purchase 68,250 additional shares of Common Stock on the basis of one share of such additional Common Stock for each four shares held, at the price of $60 per share, to yield approximately $4,095,000 to the company, exclusive of fees and expenses to be incurred in connection with said offering and sale. The date for such offering will be selected by the company and will be as soon as practicable after (a) the vote of stockholders approving certain charter amendments as proposed under authorization of this Commission dated February 9, 1948 (File No. 70-1710), or (b) the effective date of the application-declaration as amended, whichever is later. Subscription rights are to be evidenced by transferable subscription warrants which will expire at 3:00 p. m., c. s. t., on a date not less than 20 days after the mailing of notice to the holders of Dallas' Common Stock that the subscription rights are available.

Texas Utilities presently owns 249,169 shares out of a total of 273,000 shares of Dallas' outstanding Common Stock. This constitutes 91.27% of the ownership of said Common Stock. Texas Utilities proposes to subscribe for and purchase 62,292 additional shares of Common Stock, the largest full number of shares to which it will become entitled pursuant to said offering, and to dispose of a warrant or warrants representing a fractional share of such Common Stock to which it will also become entitled.

Dallas also proposes to issue and sell to the public, pursuant to the provisions of Rule U-50, $4,000,000 principal amount of 25-year Sinking Fund Debentures to be known as Dallas Power & Light Company, ____% Sinking Fund Debentures due 1973 ("Debentures").

In this connection, the Company requests that it be permitted publicly to invite proposals for the purchase of the Debentures as soon as practicable after this application-declaration, as amended, has been granted and permitted to become effective and the offer to holders of Common Stock above described has been made.

The proceeds of the sale of the Common Stock and Debentures will be used to pay off short term borrowings in the estimated amount of $2,700,000 from Texas Utilities, to meet construction program requirements and for the construction of new facilities and for other corporate purposes.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48-2185; Filed, Mar. 11, 1948; 8:45 a. m.]